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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF ALASKA

ELIZABETH BAKALAR,

Plaintiff,

vs.

MICHAEL J. DUNLEAVY, in his
individual and official capacities;
TUCKERMAN BABCOCK; and the STATE
OF ALASKA,

Defendants.

Case No. 3:19-cv-00025 JWS

**AFFIDAVIT OF COUNSEL IN SUPPORT OF
PLAINTIFF'S RULE 56(f) MOTION FOR EXTENSION**

AFFIDAVIT IN SUPPORT OF PLAINTIFF'S RULE 56(F)
MOTION FOR EXTENSION OF TIME
Bakalar v. Dunleavy, et al. No. 3:19-cv-00025 JWS
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STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

Mark Choate, being duly sworn upon oath, deposes and states:

1. I am lead counsel for the plaintiff in this matter.
2. Amanda Harber and I substituted in as plaintiff's counsel in late September, 2020.
3. We immediately prepared and filed a First Amended Complaint which added a claim for violation of the Alaska Constitution's merit principles.
4. Three days after receipt of the defendants' Answer denying all of plaintiff's claim, including that she was fired for her speech, on November 19, 2020 we served a 30(b)(6) deposition notice along with subpoena/request for production of documents. Documents were to be received on December 22, 2020 and depositions were to occur in early January.
5. On December 29, 2020 I made a call and sent a letter to defense counsel asking about the whereabouts of the documents due on December 22, 2020.
6. On the same day, I received a call from Mr. Baylous and Mr. Jamieson. They apologized that they had failed to docket the need to identify 30(b)(6) representatives in response to our deposition notice and promised to have the written discovery we requested by January 5, 2021.
7. Receiving no response, I followed up on January 5, 2021 with an email.
8. Subsequently, the defense has identified dates for their 30(b)(6) witnesses but have not been able to get the documents to us. They have requested repeated extensions of time that we have granted, and we have repeatedly moved out the depositions.
9. I don't believe these delays have been intentional in creating a bind for us but the filing of the motion for summary judgment before this discovery has been

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obtained places us at a disadvantage. We simply have not had the opportunity to obtain the discovery we need for this case to date.

10. Defense counsel have promised to get documents to us this coming week. We have noticed (again) Mr. Babcock and Ms. Grace's depositions for April 22 and April 29 respectively.
11. I start a four-day trial in Seattle on May 3 and a two-week trial in Honolulu beginning May 10, 2021. If additional depositions are needed after the end of the month, they will have to occur the last week of May or in early June.
12. I'm confident that I can respond to the Motion for Summary Judgment if the court extends the deadline for our Opposition to June 11, 2021.

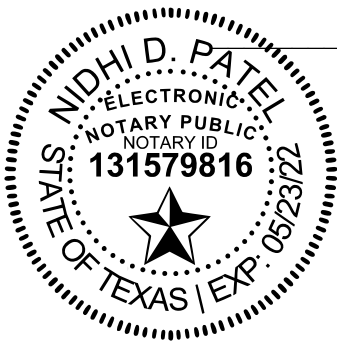
FURTHER AFFIANT SAYETH NAUGHT.

Dated: April 10, 2021.

By: Mark Choate
Mark Choate

SUBSCRIBED AND SWORN TO before April 10, 2021 at State of Texas | County of Harris

Mark Choate



By: Nidhi Patel
Notary Public
State of Texas
My Commission Expires: May 23, 2022

Document Notarized using a Live Audio-Video Connection

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